

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PETER F. RILEY,

Plaintiff,

v.

JON KOSICH,

Defendant.

DECISION AND ORDER

12-CV-670-A

On July 13, 2012, the plaintiff, Peter F. Riley, filed this action predicated on diversity jurisdiction that alleges that the defendant, Jon Kosich, an attorney, is liable for damages greater than \$75,000 for mishandling a child support proceeding in Family Court of Greene County, New York, when appearing on behalf of plaintiff Riley. In response to an inquiry from the Court regarding venue, see 28 U.S.C. § 1391(b), the attorney for plaintiff Riley acknowledges that the action was mistakenly begun in the Western District of New York “[d]ue to an address mapping error” and that venue properly lies in the Northern District of New York, where Greene County is located. The attorney for the plaintiff asserts that defendant Kosich has not yet suffered any cost or inconvenience due to the mistaken filing in this District because the defendant has not yet been served with process.

The Court has authority to transfer the action, “if it be in the interest of

justice,” to the Northern District of New York, where it could have been brought, pursuant to 28 U.S.C. § 1406(a). The purpose of the § 1406(a) transfer provision is to “remov[e] whatever obstacles may impede an expeditious and orderly adjudication of cases and controversies on their merits.” *Goldlawr, Inc. V. Heiman*, 369 U.S. 463, 466-67 (1962). Under the circumstances, the Court finds that transfer to the Northern District of New York is in the interest of justice and directs, pursuant to 28 U.S.C. § 1406(a), that the Clerk take such steps as are necessary to effect this Order to transfer the action to the Northern District of New York. To minimize confusion, the plaintiff is directed to take the steps necessary to amend the caption of the case to reflect the proper venue of the Northern District of New York before serving process upon the defendant.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: July 20, 2012